

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

OLEG Y. NIKOLAENKO,

Defendant.

2011 MAR 15 P 4:11

JON A. SANFILIPPO

CLERK

Case No. 10-CR-0243 (CNC)

246

[18 U.S.C. §§ 1030(a)(5)(A) & 1037(a)(3)]

SUPERSEDING INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES:

1. Beginning in approximately January 2007, and continuing until at least November 4, 2010, in the State and Eastern District of Wisconsin and elsewhere,

OLEG Y. NIKOLAENKO

knowingly, in and affecting interstate commerce, materially falsified header information in multiple commercial electronic mail messages and intentionally initiated the transmission of such messages.

2. The volume of electronic mail messages transmitted in furtherance of the offense exceeded 2,500 in during a 24-hour period, 25,000 during a 30-day period, and 250,000 during a one-year period.

All in violation of Title 18, United States Code, Sections 1037(a)(3) and 2.

COUNT TWO

THE GRAND JURY FURTHER CHARGES:

1. Beginning in approximately January 2007, and continuing until at least November 4, 2010, in the State and Eastern District of Wisconsin and elsewhere,

OLEG Y. NIKOLAENKO

knowingly caused the transmission of a program, information, code, and command that caused, and attempted to cause, the transmission of multiple commercial electronic mail messages.

2. As a result of such conduct, the defendant intentionally caused damage without authorization to a protected computer and caused at least \$5,000 in loss to one or more persons during a one-year period.

3. The defendant knowingly registered a false domain name and used that false domain name in the course of this offense.

All in violation of Title 18, United States Code, Sections 1030(a)(5)(A), 1030(c)(4)(A), 1030(c)(4)(B), 3559(g)(1), and 2.

FORFEITURE NOTICE

The allegations contained in Count Two of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(2)(B). Upon conviction of the offense in violation of Title 18, United States Code, Section 1030, set forth in Count Two of this Indictment, the defendant shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2)(B), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violation. The property to be forfeited includes, but is not limited to: a Lenovo Thinkpad laptop computer, Type 2904-D3G, S/N R9-1WBB4 10/03, product ID 2904D3G.

If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), and Title 28, United States Code, Section 2461(c).

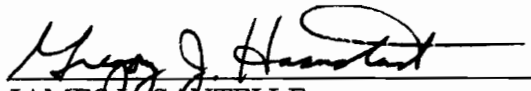
All pursuant to 18 U.S.C. § 982(a)(2)(B) and 28 U.S.C. § 2461(c).

A TRUE BILL:


FOREPERSON

Date:

3/15/11


JAMES L. SANTELLE
United States Attorney